

RAVALLI COUNTY STREAMSIDE PROTECTION REGULATION

Streamside Setback Committee Review Draft 2

| Dated: 09/28/2008

Note to readers: This document represents a working draft. Please send any comments in writing to the Ravalli County Planning Department 215 S. 4th Street, Hamilton MT 59840, 406-375-6530, planning@ravallicounty.mt.gov

The Streamside Setback Committee will consider all public comments as the Draft is revised. The SSC anticipates having a final Draft Streamside Protection Regulation by October 1, 2008, at which time the Draft will be submitted to the Board of County Commissioners for consideration and any further action.

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SECTION 1 – GENERAL

1.1 TITLE

This regulation shall be known and cited as the Ravalli County Streamside Protection Regulation (SPR). The SPR restricts certain construction and other identified activities near streams, rivers their associated wetlands within Ravalli County, Montana.

1.2 AUTHORITY

The SPR is adopted pursuant to Sections 76-2-201 through 76-2-228, MCA (excepting 76-2-206)

1.3 PURPOSE

The purpose of the SPR is to manage the construction of permanent structures and other identified activities on land adjacent to streams, rivers their associated wetlands in Ravalli County.

1.4 INTENT AND SCOPE

The intent of the SPR is to ensure public health, safety and welfare and protect streamside riparian areas within Ravalli County. This will be accomplished by protecting water quality, stream stability, fish and wildlife habitat and natural stream processes from the negative impacts caused by the construction of new, permanent structures and other identified activities. All lawful, non-conforming uses located within the, designated stream protection area that exist on the effective date of the SPR are exempt (i.e. grandfathered) from the provisions contained herein. All legal activities normally associated with agriculture, diversion, transport and distribution of irrigation water, irrigation-related structures and existing recreational activities are exempt from the provisions of the SPR. No use or activity permitted under the SPR shall be interpreted as allowing trespass on private property.

1.5 EFFECTIVE DATE

The effective date of this regulation shall be _____

1.6 JURISDICTION

The SPR shall apply to rivers, streams and associated wetlands within Ravalli County, Montana. The SPR applies to all private, county and State owned lands. The SPR does not apply to Federal lands or incorporated towns or cities

1.7 ADMINISTRATION

1.7.1 The SPR shall be administered by the Ravalli County Planning Department, hereinafter called "The Department".

1.7.2 Any ~~landowner, landowner agent, or contractor, building a new permanent structure on property~~ adjoining a stream (within the distances outlined in Table 2), must apply to the Department for a Boundary Verification Document at least 30 days prior to the beginning of any construction.

Deleted: as defined under these regulations

Deleted: subject to these regulations

1.7.3 The owner or project manager must give the Department their contact information and general location of the project, along with a description or drawing of the proposed construction and its approximate location relative to the stream.

1.7.4 The Department staff, or their designated representative, will review the proposal generally to ascertain the proximity of the structure(s) to the stream setback. Based on the findings, the reviewer may require the on-site delineation of either the setback line or the buffer line, or both, by either Department staff or a competent individual acceptable to the Department.

1.7.5 The Department will issue a letter to the landowner certifying that the boundary of the setback and buffer have been officially located, marked and recorded.

1.7.6 The Department will maintain a file on the project and must be allowed to inspect the ongoing construction, as they deem necessary to confirm that new structures do not infringe upon the stream protection zone.

1.7.7 Failure to comply with the requirements set forth within these regulations, including the verification of the setback boundary and location of structures outside that boundary, will result in penalties and enforcement as described in Section 9.

1.8 SEVERABILITY

If any section, subsection, paragraph, sentence or clause of the SPR is declared invalid for any reason, such decision shall not affect the remaining portions of the SPR which shall remain in full force and effect. To this end, the provisions of the SPR are hereby declared to be severable.

1.9 DEFINITIONS

Active Channel: Any channel that exhibits evidence of recent flow and includes a clean or scoured streambed and debris adjacent to the channel deposited by flowing water.

Agricultural Use: The production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes as defined in MCA 76-2-901 through 903. The term also refers to the raising of domestic animals and wildlife in a domesticated or a captive environment. *[Section 15-1-101(a), MCA]*

Best Management Practices: Those practices recommended by the National Resource Conservation Service (NRCS).

Buffer, Buffer Zone, or Buffer area: A natural, relatively undisturbed strip or "green belt" bordering a stream or permanent water body, or wetland (See Figure 1). Certain activities are prohibited within the buffer zone (See the section titled New Uses Prohibited within the Buffer). The buffer zone width for each stream class is defined in the section titled, Buffer and Setback Requirements.

Boundary Verification Document: A document issued by the Department that identifies the setback and buffer boundary, according to this SPR, at the time of construction.

Creek: A natural conveyance of water smaller than a river (and often a tributary of a river).

Grandfathered: The act of allowing existing, non-conforming uses to continue as long as these regulations remain in effect. . Grandfathering, as defined herein, shall survive sale or transfer of property ownership.

Impervious Surfaces: A surface that prevents or significantly reduces the entry of water into the underlying soil, resulting in runoff from the surface in greater quantities and/or at an increased rate when compared to natural conditions prior to development. Examples of impervious surfaces include parking lots, driveways, roadways, storage areas, and rooftops. The imperviousness of these areas commonly results from paving, compacted gravel, waterproof liners, compacted earth, and oiled earth.

Intermittent stream: A well-defined channel that contains water for only part of the year, typically during spring through early summer, and during heavy precipitation events. For this regulation the stream must have well defined stream banks and a predominantly cobble, gravel, sand or silt stream bottom. Grassy swales without defined stream banks are not included

Irreversible Damage:

Any damage resulting from construction, excavation, removal of vegetation or other activities within the Buffer that cannot be reasonably repaired, re-established or mitigated because of technical or financial considerations.

100-Year Flood: A flood magnitude that has a one (1) percent chance of being equaled or exceeded in any given year, commonly referred to as a base flood.

100-Year Flood Plain: The area of land that would be inundated by water of a 100-year flood. The 100-year flood plain consists of a floodway and a flood fringe.

Flood Plain Regulation: Regulations that have been adapted and are being administered by the County that regulate activities within an officially designated flood plain area.

Floodway: Floodways are defined as the channel of a river or stream, and the overbank areas adjacent to the channel. The floodway carries the bulk of the floodwater downstream and is usually the area where water velocities and forces are the greatest.

Flood Fringe: The flood fringe refers to the outer portions of the flood plain, beginning at the edge of the floodway and continuing outward. It is the area of the 100-year flood plain lying outside of the floodway within interim flood hazard areas.

Nonconforming Use: A nonconforming use is a structure, land or activity which was lawfully established and maintained prior to the adoption of a regulation, but which does not conform to the use regulations for the setback in which it is located.

Ordinary High Water Mark: An elevation that typically marks the water level in a stream which has a recurrence level of approximately 2.5 years. It is the highest level at which the water has remained long enough to leave a prominent mark on the landscape. Typically, it is the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Perennial Stream: A stream or a reach of a natural stream that, under normal precipitation conditions, flows throughout the year. Streams dewatered during part of the year by irrigation or other withdrawals, but which would flow through the year without said withdrawals, are perennial streams.

Permanent Structure: Any structure, including residential structures, barns, garages and outbuildings that utilize a durable, solid foundation and are classified as real property. Examples include residences, decks with concrete foundations, masonry walls, and sheds.

Process of Construction:

A residential structure is determined to be in the process of construction if:

1. There is an existing foundation, wastewater treatment system and well in the ground on the effective date of the SPR, and/or,

2. A valid drain field permit has been secured that specifies the location of the wastewater treatment system and the house, when constructed, is not closer to the stream than the drain field or the appropriate minimum Buffer plus Setback distance, whichever is less.

Residential Structure

Any structure completed or in the process of construction intended for human occupancy. Mobile homes and modular homes are considered residential structures. Campers and motor homes are not considered residential structures.

Riparian Area: An area of land adjacent to a stream, river, lake or wetland that contains vegetation that, due to the presence of water, is distinctly different from the vegetation of adjacent upland areas.

Setback

The area adjacent to a stream or wetland where permanent structures such as homes, garages and other structures with foundations are prohibited (See Figure 1). The buffer zone (see definition) is contained within the setback. The setback distance is defined for each stream class in the section titled Buffer and Setback Requirements.

Stream/River:

A stream or river is a body of water with a detectable current, confined within a bed and banks.

Structure:

Any permanent or temporary object that is constructed, installed on, or affixed to a parcel of land. It includes building of all types, bridges, in-stream structure, storage tanks, wells, fences, swimming pools, towers, antennas, poles, pipelines, transmission lines, smokestacks, and similar objects, but does not include objects, such as cars, trucks, trailers, or boats.

Variance:

Use or activity approved by the Ravalli County Board of Adjustments that specifically permits deviation from Buffer and Setback requirements and restrictions included in the SPR

Wetland:

An area where the vegetation is primarily sedges, cattails, willows or similar plants, and the soil is saturated during most of the growing season. These wetland areas extend from the edge of the stream to a break in slope where the ground is distinctly drier.

310 Permit (Montana Natural Streambed and Land Preservation Act):

A permit required by any private, nongovernmental individual or entity that proposes to physically alter a stream on public or private land. The Montana Natural Streambed and Land Preservation Act requires the permit before any stream altering activity is carried out within the ordinary high water marks of a perennial stream. This law is administered by the Board of Supervisors of the conservation district in which the project takes place.

SECTION 2: BUFFER AND SETBACK REQUIREMENTS

This Section defines the buffer and setback areas to be regulated by the SPR. Streamside buffer and setback area requirements for any stream shall be determined by the Stream Class as defined in this section.

The buffer and setback boundaries and boundary in which application for a Boundary Verification Document is required shall be based on the location of the applicable ordinary high water mark on the effective date of the SPR. The Board of Adjustments may revise the boundaries of the buffer and setback in selected locations in the event of a major, long term, natural relocation of an active stream channel.

Application for a Boundary Verification Document shall be required for construction of any permanent structure within 100 feet of the setback boundary to ensure that the buffer and setback boundaries have been accurately determined and that said construction and activities will not result in unacceptable, permanent impacts to the buffer and setback areas.

CLASS 1 STREAM:

The Class 1 Stream shall consist of the main stem of the Bitterroot River extending from the confluence of the West Fork and East Fork downstream to the Missoula County boundary.

The *buffer* shall consist of the streamside area defined by measuring a lateral distance of 200 feet outward from the ordinary high water mark along all active channels. The *setback* shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 250 feet outward from the ordinary high water mark along all active channels, *or*; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater. (See Table 2).

CLASS 2 STREAMS:

Class 2 streams shall consist of the entire length of the East and West Forks of the Bitterroot River and the larger tributaries of the Bitterroot River as designated in Table 1 below:

Table 1

BITTERROOT RIVER TRIBUTARIES

Bass Creek	Burnt Fork Creek	Lost Horse Creek	Rye Creek	Sweathouse Creek
Bear Creek (including North & South Channels)	Chaffin Creek	Mill Creek	Sawtooth Creek	Sweeney Creek
Big Creek	Fred Burr Creek	One Horse Creek	Skalkaho Creek	Tin Cup Creek
Blodgett Creek	Kootenai Creek	Roaring Lion Creek	Sleeping Child Creek	

WEST FORK BITTERROOT TRIBUTARIES

Nez Perce Fork	Hughes Creek
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The *buffer* for all Class 2 streams shall consist of the streamside area defined by measuring a lateral distance of 100 feet outward from the ordinary high water mark along all active channels. The *setback* shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 150 feet outward from the ordinary high water mark along all active channels, *or*; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater. (See Table 2).

CLASS 3 STREAMS:

Class 3 streams shall consist of all perennial streams not defined as a Class 1 or Class 2 streams.

The *buffer* for all Class 3 streams shall consist of the streamside area defined by measuring a lateral distance of 75 feet outward from the ordinary high water mark along all active channels. The *setback* shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 100 feet outward from the ordinary high water mark along all active channels, *or*; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater (See Table 2).

CLASS 4 STREAMS:

All intermittent streams shall be classified as Class 4 Streams.

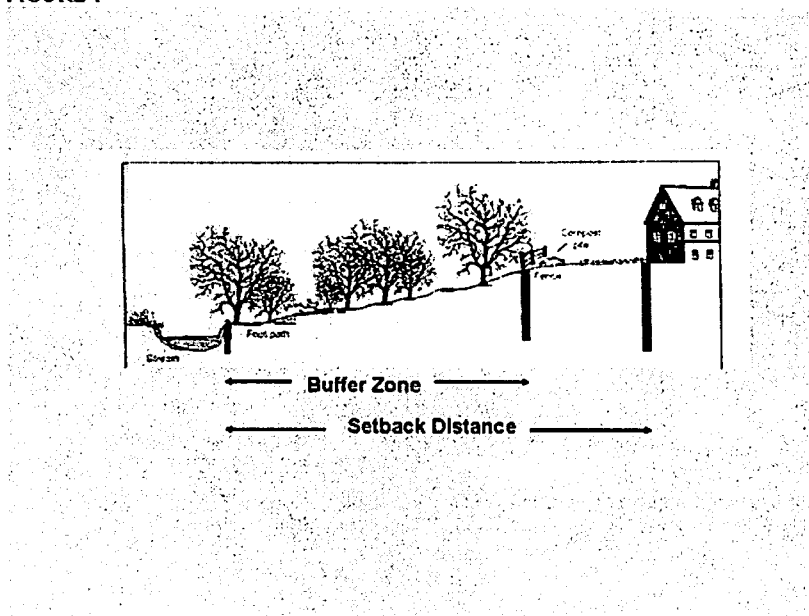
The *buffer* for all Class 4 streams shall consist of the streamside area defined by measuring a lateral distance of 50 feet outward from the ordinary high water mark along all active channels. The *setback* shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 75 feet outward from the ordinary high water mark along all active channels, *or*; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater. (See Table 2).

TABLE 2: BUFFER, SETBACK BOUNDARY VERIFICATION WIDTHS:

STREAM CLASS	BUFFER WIDTH The distance measured outward from the ordinary high water mark.	SETBACK WIDTH The distance measured outward from the ordinary high water mark. NOTE: The setback width INCLUDES the buffer width.	BOUNDARY VERIFICATION WIDTH The distance measured outward from the ordinary high water mark to the area of construction.
Class 1	200 feet	250 feet	350 feet
Class 2	100 feet	150 feet	250 feet
Class 3	75 feet	100 feet	200 feet
Class 4	50 feet	75 feet	175 feet

See Figure 1 for Pictorial.

FIGURE 1



SECTION 3: GRANDFATHERED STRUCTURES AND USES WITHIN THE BUFFER AND SETBACK

Existing Structures and Uses:

All legal structures and uses, including structures in the process of construction, within the buffer and setback areas existing on the effective date of this Regulation shall be allowed to continue (i.e. they are grandfathered). Grandfathering, as defined herein, shall survive sale or transfer of property ownership.

Associated Amenities:

All existing, lawful, non-conforming amenities, such as lawns, gardens, outbuildings and picnic areas are exempt.

SECTION 4: ALLOWED STRUCTURES AND USES WITHIN THE BUFFER AND SETBACK

Agricultural Structures and Uses:

All legal agricultural structures and uses and structures and uses directly related to agricultural enterprise, including all agricultural activities intended for personal use or recreation (such as animal husbandry and garden plots), existing on the effective date of this Regulation shall be allowed to continue so long as this Regulation is in effect. This does not include new structures with permanent foundations such as garages, residential structures, shops etc.

Irrigation Structures and Uses:

All legal existing structures and activities required for transport, distribution and use of water for the purpose of irrigating crops and lawns, and maintenance of ponds, including crops, lawns and ponds located within the buffer and setback area, shall be allowed to continue.

SECTION 5: ALLOWED NEW STRUCTURES AND USES WITHIN THE BUFFER

Construction and Maintenance within the Buffer:

Replacement of Existing Structures: Any existing, legal structure within the buffer that is destroyed may be replaced.

DEQ Approval

The construction of a residential structure and one outbuilding shall be permitted on any existing legally buildable lot, having legal DEQ approval for a septic system, on the effective date of this regulation. If the buffer and setback distances applicable to the lot under these regulations cannot be met due to substantial topographic or boundary limitations, the structure(s) may be placed closer to the Mean High Water mark (MHW) to the minimum extent required; however, in no case shall any structure be placed closer than 100 ft. from MHW. Accordingly, the buffer distance from MHW may be reduced for this particular lot to allow it to remain as a buildable lot. However the goal in doing this must be to continue to protect the maximum amount of buffer and setback and yet allow the use of the lot for the building of structure(s). The final location of the structure(s) shall be subject to the review and require the approval of the RC Planning Department.

“Substantial topographic limitation” as used herein shall mean the construction of a residential structure or accompanying outbuilding could not be accomplished in the limited area by ordinary and commonly accepted and used techniques.

Expansion of Existing Structures:

Expansion of an existing or replacement structures shall be allowed so long as the construction is not done closer to the ordinary high water mark than the original structure. The footprint of the

new construction or expansion of an existing structure may be no more than 50% larger, but no more than 1000 square feet larger, than the footprint of the original structure. Expansion of an existing structure or of a replacement structure shall be allowed one time.

Repair of Existing Structures:

Normal repair and maintenance to all existing and replacement structures and landscaping is allowed. All activities done under a valid 124 permit or 310 permit issued by the Bitterroot Conservation shall be allowed.

Subdivisions:

Construction in new subdivisions for which designated no build/alteration zones and building envelopes are approved by the Ravalli County Board of County Commissioners prior to the effective date of this Regulation is allowed

Fencing:

Fencing is permitted within the Buffer. *(Guidance code language will be added to attachment)*

Irrigation and Other Water Uses:

All activities undertaken to divert and deliver water under a valid water right, including vegetation control or removal within the ditch or canal easement, shall be allowed.

Recreational Uses: All recreational activities such as fishing, hunting, hiking, picnicking, temporary camping and similar temporary uses shall be allowed.

Roads and Stream Crossing:

Construction and use of unpaved roads, stream crossings and bridges required to access structures or property not otherwise reasonably accessible shall be allowed.

Temporary Structures: Motor homes, tents, campers and other temporary structures shall be allowed for no more than a total of 90 days per year.

Timber Harvest: Timber harvest shall be allowed if carried out in compliance with the Montana Streamside Management Zone Regulation.

Utilities:

Construction of and placement of utilities is allowed within the Buffer as long as the site is restored to native conditions

Weed and Pest Control: All measures used to control noxious weeds and other undesirable, non- native vegetation shall be allowed if carried out in accordance with guidelines established by the Ravalli County Weed Management District. Herbicides may be used when applied in strict accordance with the Product Label and in accordance with guidelines of the Weed Management District.

SECTION 6: PROHIBITED NEW USES AND ACTIVITIES WITHIN THE BUFFER AREA

Construction:

All new construction of any type within the Buffer is prohibited except as specifically allowed under Section 5 of this Regulation.

Hazardous Waste and Debris:

Storage of hazardous waste and debris within the Buffer is prohibited. All hazardous waste shall be removed from the buffer area within 6 months following the effective date of the SPR. Existing material used as rip-rap is exempt and can be maintained but cannot be expanded or extended. (Debris includes

abandoned vehicles and equipment, household trash and any other inorganic materials not naturally found within the designated buffer area).

Impervious structures:

Construction of impervious structures such as parking lots, roads and equipment or materials storage areas are prohibited.

Roads:

New roads are prohibited except those associated with permitted stream crossings. All new, lawful roads must be designed and constructed to minimize negative impacts to the buffer zone.

Removal of Vegetation:

Removal of vegetation reasonably required to protect personal property from the threat of wildfire or to remove a threat to public or personal safety shall be allowed. Thinning or trimming of vegetation to provide or enhance access to or view of the stream is also allowed. Landowners are encouraged to consult with the local fire protection authority, the local DNRC forestry specialist, and/or the local Montana FWP biologist for advice on these matters.

The following illustrations offer further guidance on vegetation removal (Ben: This should go in the main body of the document...examples are needed)

Wastewater Treatment Systems:

New septic tanks, drain fields, septic lines, garbage pits or other structures designed to collect, treat or discharge sewage or other waste products are prohibited unless performed under a valid Permit issued by Ravalli County or with a document proving legal DEQ approval. Either of these documents must be issued prior to the effective date of the SPR.

SECTION 7: PROHIBITED STRUCTURES AND USES WITHIN THE SETBACK AREA

Construction of new permanent structures within the setback area is prohibited.

SECTION 8: OTHER APPLICABLE REGULATIONS

Wherein the SPR imposes a greater restriction upon uses and activities within the Buffer area than is imposed by other Federal, State or other Ravalli County Statutes/ Regulations the SPR shall apply. In cases where Federal, State or other County Statutes/ Regulations are more restrictive, the more restrictive State / Regulation shall apply

SECTION 9: VARIANCES

1) Variances and/or conditional use permits for new uses located within the Buffer and Setback area may be granted by the Board of Adjustment, if in light of the provisions of this Regulation, positive or non applicable findings based on substantial, credible evidence are made for each of the following criteria:

- a. Granting the variance will not adversely affect other property.
- b. The variance does not violate existing Federal, State, or County statutes / regulations.
- c. Enforcement of the SPR would result in unreasonable hardship to the owner as determined by the Board of Adjustments, (financial hardship is not considered an unreasonable hardship).
- d. Granting of the variance will not permanently and adversely affect the health, safety, and/or welfare of the residents of Ravalli County.
- e. Granting of the variance will not cause excessive negative impacts to water quality, stream stability, fish and wildlife habitat, and natural flood flow heights.
- f. No illegal actions on the part of the applicant are the cause for the variance request.
- g. Granting of the variance will be in harmony with the general purpose and intent of the SPR.

- h. That a literal interpretation of the provisions of the SPR would deprive the applicant of rights commonly enjoyed by other properties in the same area.
- i. Granting of the variance will not confer on the applicant any special privilege that is denied by the SPR to other lands, structures, or buildings in the same area.

2) The Board of Adjustment, when considering the approval of a variance and/or conditional use permit, should consider any mitigating adjustments that the applicant may offer. Some types of mitigation that would be considered are, but not limited to;

- a. Treatment to prevent erosion or slope instabilities.
- b. Installation and maintenance of drainage and retention facilities.
- c. Seeding or planting of native vegetation.
- d. Creating a new riparian or wetland area to replace the area affected by the variance.
- e. Other measures to achieve riparian and/or wetland protection.
- f. Installation of pervious driveways and other measures to minimize creation of impervious surfaces.
- g. Sighting of lawns and grass as far as possible from riparian areas.

3) Property owners or their designated representatives shall make the application, using the procedures and forms provided by The Department, through The Department to the Board of Adjustments. The Department will have procedures in place to determine when a variance application is complete.

4) Upon receipt of the completed application from The Department, the Board of Adjustments shall schedule a public hearing to be held within 45 days.

SECTION 10: SPR ZONING BOARD OF ADJUSTMENTS

- 1) The Ravalli County Board of County Commissioners shall provide for a Board of Adjustments, which will be responsible for review of Applications for Variance submitted in accordance with the Section of the SPR titled "Variances".
- 2) The Board of Adjustments shall consist of at least 5 members, to be appointed to 2 year terms by the County Commissioners.
- 3) The Board of Adjustments for streamside protection may be a unique board seated to review variance requests, or may be combined with review of other County zoning regulations.
- 4) Any meeting of the Board of Adjustments shall be open to the public and duly noticed as a public meeting. At meetings where a variance request is to be considered, a written letter describing the project and the details of the meeting must be mailed to any property owner within 300 feet of the subject property boundary, giving at least two weeks notice of the meeting.
- 5) The Board of Adjustments decision on a variance may be appealed to the full Board of County Commissioners.
- 6) The Board of Adjustments shall require, with any variance granted, that the applicant provide as-built certification from a Professional Engineer or other qualified licensed professional that the project was completed in accordance with approved conditions.
- 7) Any member of the Board of Adjustments, or authorized agent, may inspect the site of a proposed project either to understand a proposed project or to determine that an on-going or completed project has met approved conditions. By making an application for approval or variance, the owner or occupant of the property agrees to allow access to the property at reasonable times, after due notice, for the purpose of such inspections.
- 8) Where a provision of the SPR is found to be in conflict with a provision of any other County regulation, the provision that, in the judgment of the Zoning Board of Adjustments, establishes the higher or more stringent standard for the promotion and protection of the health and safety of the people shall prevail.
- 9) Where a provision of the SPR is found to be vague or open to excessive interpretation, the Board of Adjustments may issue a policy statement that clarifies how a provision will be interpreted. The

Board of Adjustments may also recommend amendment or revision of the SPR by the Board of County Commissioners as deemed necessary.

SECTION 11: ENFORCEMENT

- 1) This regulation will be administered, managed and supervised by the staff and other authorized agents of the Department. Penalties for violation of these regulations or violation of any approved variance to the SPR shall be subject to criminal prosecution in accordance with Section ____ of MCA
- 2) The set of base line 'previously existing conditions' as described in the SPR will be decided by comparison with dated aerial photographs, or similar detailed pictures of on site conditions, taken at a given site. Detailed site maps prepared by a licensed surveyor or Professional Engineer may be used in lieu of, or in addition to, aerial photos.
- 3) Any permit or approval granted under the SPR shall be void if based upon misrepresentation of the facts. Failure to disclose any relevant material or facts to obtain and approval shall be considered misrepresentation.

SECTION 12: VIOLATIONS AND PENALTIES

Big Hole Language:

Any person, firm or corporation that violates the provisions of this Regulation shall be guilty of a misdemeanor and punishable by a fine of up to \$500/day and for a jail term of not greater than six months. Each day that the Prohibited Uses and Activities occur constitutes a separate violation. Criminal responsibilities of firms or corporations shall be governed by relevant provisions of 45-2-311 and 45-2-312 MCA.

OR

Language from the draft zoning ordinance (probably more in line with 76-2-315) (Thanks John)

A. Violations:

1. Violation a Misdemeanor
Violation of this Regulation or failure to comply with any condition attached to a decision under this Regulation shall be a misdemeanor
2. Complaint and Investigation
Any person may file a complaint with the Planning Department alleging that a violation of this Regulation has occurred and stating specific facts to support the allegation. The Planning Director shall record the complaint, shall investigate, and may take action as provided in this Regulation. Where it is unclear whether a violation has occurred, the county shall give the benefit of the doubt to the property owner, and shall notify the property owner of the complaint but shall take no further action.
3. Entry onto Private Property
County personnel shall not have permission to enter private property for purposes of investigating alleged violations or enforcing this Regulation unless the property owner has given permission for entry or the apparent alleged violation creates an imminent threat to life or property.

B. Notification:

If the Planning Director concludes that a violation of the Regulation has occurred, the following steps may be taken:

1. Stop-Work Order

If the violation exists on a development that is under construction, the Planning Director shall notify the property owner in writing, shall issue a stop-work order to suspend the building permit and all related construction until the violation is corrected, and shall notify the property owner that the stop-work order may be appealed within 10 days.

2. Notice to Correct

If the violation exists on a lot or on land or in a structure that is not under development, the Planning Director shall give written notice to the property owner of record stating that the violation must be corrected within 10 working days and that the violation can be appealed.

C. Remedies and Penalties:

1. Remedies

After the violation appeal period and/or correction period(s) have passed, if the Planning Director finds that a properly noticed violation has not been corrected, the Planning Director may (a) revoke any zoning approvals or building permits related to the property, and/or (b) remove or correct the violation, record the actual costs of doing so, and recover the amount of the total costs from the property owner by any legal means. The BCC may also take any other lawful action necessary to prevent or remedy any violation.

2. Penalties

Any person who violates this Regulation or fails to comply with any of its requirements shall, upon conviction, be fined not more than \$500 for each offense or imprisoned not more than six months, or both, and in addition shall pay all costs and expenses involved in the case. Each day the violation continues shall be a separate, punishable offense (76-2-315, MCA). The owner or tenant of all or part of any building, structure, premises, and any architect, builder, contractor, agent, or other person who commits, participates in, assists, or maintains a violation of this Regulation may be found guilty of a separate offense and be subject to the penalties specified above.

This is the End of this Document.